

### **REMARKS**

Applicants provisionally elect **with traverse** the invention of Group II, claims 5-8, directed to a Form B of rizatriptan benzoate. However, Applicants reserve the right to present non-elected claims 1-4, 9-40, and 43-44 in one or more divisional applications. Furthermore, in the event the Examiner maintains the outstanding restriction between the elected invention of a crystalline polymorph Form B of rizatriptan benzoate and the methods of making (Group IV) such a composition set forth in claims 24-31, Applicants reserve right the rejoinder in accordance with the provisions of 37 C.F.R. § 1.104. Accordingly, the examination of non-elected method claims 24-31 should be held in abeyance until the indication of an allowable composition claim.

### **CONCLUSION**

The Office Action of March 16, 2009 set a one-month shortened statutory period for response. Accordingly, response is due on or before **April 16, 2009**. Applicants submit that this response is timely and no additional fees, apart from those included herewith, are required. However, in the event that further fees are required to enter the instant response and/or maintain the pendency of this application, the Commissioner is authorized to charge such fees to our Deposit Account No. 50-2101.

If the Examiner has any questions or concerns regarding this communication, she is invited to contact the undersigned.

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